

By: Chuck Hopson

H.B. No. 475

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Panola County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8819 to read as follows:

CHAPTER 8819. PANOLA COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8819.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Panola County Groundwater Conservation District.

Sec. 8819.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Panola County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8819.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before November 6, 2007:

(1) the district is dissolved on November 6, 2007,

1 except that:

2 (A) any debts incurred shall be paid;

3 (B) any assets that remain after the payment of
4 debts shall be transferred to Panola County; and

5 (C) the organization of the district shall be
6 maintained until all debts are paid and remaining assets are
7 transferred; and

8 (2) this chapter expires September 1, 2012.

9 Sec. 8819.004. INITIAL DISTRICT TERRITORY. The initial
10 boundaries of the district are coextensive with the boundaries of
11 Panola County, Texas.

12 Sec. 8819.005. APPLICABILITY OF OTHER GROUNDWATER
13 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
14 chapter, Chapter 36, Water Code, applies to the district.

15 Sec. 8819.006. DISTRICT PURPOSE. The district is created
16 to:

17 (1) provide for the protection, recharging, and
18 prevention of pollution and waste of groundwater in the Panola
19 County area;

20 (2) control subsidence caused by the withdrawal of
21 water from the groundwater reservoirs in the Panola County area;
22 and

23 (3) regulate the transport of groundwater out of the
24 district.

25 [Sections 8819.007-8819.020 reserved for expansion]

26 SUBCHAPTER A-1. TEMPORARY PROVISIONS

27 Sec. 8819.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)

1 Not later than the 45th day after the effective date of this
2 chapter, nine temporary directors shall be appointed as follows:

3 (1) the Panola County Commissioners Court shall
4 appoint eight temporary directors, with two of the temporary
5 directors appointed from each of the four commissioners precincts
6 in the county to represent the precincts in which the temporary
7 directors reside; and

8 (2) the county judge of Panola County shall appoint
9 one temporary director who resides in the district to represent the
10 district at large.

11 (b) Of the temporary directors, at least one director must
12 represent rural water suppliers in the district, one must represent
13 agricultural interests in the district, and one must represent
14 industrial interests in the district.

15 (c) If there is a vacancy on the temporary board of
16 directors of the district, the Panola County Commissioners Court
17 shall appoint a person to fill the vacancy in a manner that meets
18 the representational requirements of this section.

19 (d) Temporary directors serve until the earlier of:

20 (1) the election of initial directors under Section
21 8819.024; or

22 (2) the date this chapter expires under Section
23 8819.003.

24 Sec. 8819.022. ORGANIZATIONAL MEETING OF TEMPORARY
25 DIRECTORS. As soon as practicable after all the temporary
26 directors have qualified under Section 36.055, Water Code, a
27 majority of the temporary directors shall convene the

1 organizational meeting of the district at a location within the
2 district agreeable to a majority of the directors. If an agreement
3 on location cannot be reached, the organizational meeting shall be
4 at the Panola County Courthouse.

5 Sec. 8819.023. CONFIRMATION AND INITIAL DIRECTORS'
6 ELECTION. (a) The temporary directors shall hold an election to
7 confirm the creation of the district and to elect the initial
8 directors of the district.

9 (b) The temporary directors shall have placed on the ballot
10 the name of any candidate who files for an initial director's
11 position and blank spaces to write in the names of other persons. A
12 temporary director who is eligible to be a candidate under Section
13 8819.052 may file for an initial director's position.

14 (c) Section 41.001(a), Election Code, does not apply to an
15 election held under this section.

16 (d) Except as provided by this section, an election under
17 this section must be conducted as provided by Sections
18 36.017(b)-(i), Water Code, and the Election Code. The provision of
19 Section 36.017(d), Water Code, relating to the election of
20 permanent directors does not apply to an election under this
21 section.

22 Sec. 8819.024. INITIAL DIRECTORS. (a) If creation of the
23 district is confirmed at an election held under Section 8819.023,
24 the initial directors of the district serve on the board of
25 directors until permanent directors are elected under Section
26 8819.025 or 8819.053.

27 (b) The two initial directors representing each of the four

1 commissioners precincts shall draw lots to determine which of the
2 two directors shall serve a term expiring June 1 following the first
3 regularly scheduled election of directors under Section 8819.025,
4 and which of the two directors shall serve a term expiring June 1
5 following the second regularly scheduled election of directors.
6 The at-large director shall serve a term expiring June 1 following
7 the second regularly scheduled election of directors.

8 Sec. 8819.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
9 the uniform election date prescribed by Section 41.001, Election
10 Code, in May of the first even-numbered year after the year in which
11 the district is authorized to be created at a confirmation
12 election, an election shall be held in the district for the election
13 of four directors to replace the initial directors who, under
14 Section 8819.024(b), serve a term expiring June 1 following that
15 election.

16 Sec. 8819.026. EXPIRATION OF SUBCHAPTER. This subchapter
17 expires September 1, 2012.

18 [Sections 8819.027-8819.050 reserved for expansion]

19 SUBCHAPTER B. BOARD OF DIRECTORS

20 Sec. 8819.051. DIRECTORS; TERMS. (a) The district is
21 governed by a board of nine directors.

22 (b) Directors serve staggered four-year terms, with four or
23 five directors' terms expiring June 1 of each even-numbered year.

24 (c) A director may serve consecutive terms.

25 Sec. 8819.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
26 PRECINCTS. (a) The directors of the district shall be elected
27 according to the commissioners precinct method as provided by this

1 section.

2 (b) One director shall be elected by the voters of the
3 entire district, and two directors shall be elected from each
4 county commissioners precinct by the voters of that precinct.

5 (c) Except as provided by Subsection (e), to be eligible to
6 be a candidate for or to serve as director at large, a person must be
7 a registered voter in the district. To be a candidate for or to
8 serve as director from a county commissioners precinct, a person
9 must be a registered voter of that precinct.

10 (d) A person shall indicate on the application for a place
11 on the ballot:

12 (1) the precinct that the person seeks to represent;
13 or

14 (2) that the person seeks to represent the district at
15 large.

16 (e) When the boundaries of the county commissioners
17 precincts are redrawn after each federal decennial census to
18 reflect population changes, a director in office on the effective
19 date of the change, or a director elected or appointed before the
20 effective date of the change whose term of office begins on or after
21 the effective date of the change, shall serve in the precinct to
22 which elected or appointed even though the change in boundaries
23 places the person's residence outside the precinct for which the
24 person was elected or appointed.

25 Sec. 8819.053. ELECTION DATE. The district shall hold an
26 election to elect the appropriate number of directors on the
27 uniform election date prescribed by Section 41.001, Election Code,

1 in May of each even-numbered year.

2 Sec. 8819.054. COMPENSATION. (a) Sections 36.060(a), (b),
3 and (d), Water Code, do not apply to the district.

4 (b) A director is entitled to receive compensation of not
5 more than \$50 a day for each day the director actually spends
6 performing the duties of a director. The compensation may not
7 exceed \$3,000 a year.

8 (c) The board may authorize a director to receive
9 reimbursement for the director's reasonable expenses incurred
10 while engaging in activities on behalf of the board.

11 Sec. 8819.055. BOARD ACTION. A majority vote of a quorum is
12 required for board action. If there is a tie vote, the proposed
13 action fails.

14 [Sections 8819.056-8819.100 reserved for expansion]

15 SUBCHAPTER C. POWERS AND DUTIES

16 Sec. 8819.101. GENERAL POWERS. Except as otherwise
17 provided by this chapter, the district has all of the rights,
18 powers, privileges, functions, and duties provided by the general
19 law of this state applicable to groundwater conservation districts
20 created under Section 59, Article XVI, Texas Constitution.

21 Sec. 8819.102. GROUNDWATER WELLS UNDER RAILROAD COMMISSION
22 JURISDICTION. (a) Except as provided by this section, a
23 groundwater well drilled or operated within the district under a
24 permit issued by the Railroad Commission of Texas is under the
25 jurisdiction of the railroad commission, and, in respect to such a
26 well, the district has only the authority provided by Chapter 36,
27 Water Code.

1 (b) Groundwater produced in an amount authorized by a
2 railroad commission permit may be used within or exported from the
3 district without a permit from the district.

4 (c) To the extent groundwater is produced in excess of
5 railroad commission authorization, the holder of the railroad
6 commission permit:

7 (1) shall apply to the district for the appropriate
8 permit for the excess production; and

9 (2) is subject to the applicable regulatory fees.

10 (d) The district may impose a production fee or an export
11 fee on groundwater produced from a well that was drilled to support
12 mining activities and that is otherwise exempt from regulation by
13 the district under Subsection (a) if that groundwater is used for
14 municipal purposes or by a public utility, as defined by Section
15 13.002, Water Code. Any fee imposed under this subsection may not
16 exceed the fee imposed on other groundwater producers in the
17 district.

18 Sec. 8819.103. PROHIBITION ON DISTRICT PURCHASE, SALE,
19 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
20 purchase, sell, transport, or distribute surface water or
21 groundwater for any purpose.

22 Sec. 8819.104. PROHIBITION ON DISTRICT USE OF EMINENT
23 DOMAIN POWERS. The district may not exercise the power of eminent
24 domain.

25 Sec. 8819.105. METERING. The district may meter water from
26 a well under its jurisdiction only if:

27 (1) water from the well is being transported outside

1 Panola County;

2 (2) the directors have reason to believe that the well
3 has produced water in excess of 25,000 gallons per day for an
4 extended period of time; or

5 (3) the directors have reason to believe that the well
6 is causing pollution or undue interference with other
7 water-producing wells.

8 Sec. 8819.106. REGIONAL COOPERATION. (a) In this section,
9 "designated groundwater management area" means an area designated
10 as a groundwater management area under Section 35.004, Water Code.

11 (b) To provide for regional continuity, the district shall:

12 (1) participate as needed in coordination meetings
13 with other groundwater conservation districts in its designated
14 groundwater management area;

15 (2) coordinate the collection of data with other
16 groundwater conservation districts in its designated groundwater
17 management area in such a way as to achieve relative uniformity of
18 data type and quality;

19 (3) coordinate efforts to monitor water quality with
20 other groundwater conservation districts in its designated
21 groundwater management area, local governments, and state
22 agencies;

23 (4) provide groundwater level data to other
24 groundwater conservation districts in its designated groundwater
25 management area;

26 (5) investigate any groundwater or aquifer pollution
27 with the intention of locating its source;

1 (6) notify other groundwater conservation districts
2 in its designated groundwater management area and all appropriate
3 agencies of any groundwater pollution detected;

4 (7) annually provide to other groundwater
5 conservation districts in its designated groundwater management
6 area an inventory of water wells and an estimate of groundwater
7 production in the district; and

8 (8) include other groundwater conservation districts
9 in its designated groundwater management area on the mailing lists
10 for district newsletters, seminars, public education events, news
11 articles, and field days.

12 [Sections 8819.107-8819.150 reserved for expansion]

13 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

14 Sec. 8819.151. LIMITATION ON TAXES. The district may not
15 impose ad valorem taxes at a rate that exceeds 1.5 cents on each
16 \$100 valuation of taxable property in the district.

17 Sec. 8819.152. FEES. (a) The board by rule may impose
18 reasonable fees on each well:

19 (1) for which a permit is issued by the district; and

20 (2) that is not exempt from district regulation.

21 (b) A production fee may be based on:

22 (1) the size of column pipe used by the well; or

23 (2) the amount of water actually withdrawn from the
24 well, or the amount authorized or anticipated to be withdrawn.

25 (c) The board shall base the initial production fee on the
26 criteria listed in Subsection (b)(2). The initial production fee:

27 (1) may not exceed:

1 (A) 25 cents per acre-foot for water used for
2 agricultural irrigation; or

3 (B) 6.75 cents per thousand gallons for water
4 used for any other purpose; and

5 (2) may be increased at a cumulative rate not to exceed
6 three percent per year.

7 (d) In addition to the production fee authorized under this
8 section, the district may assess an export fee on groundwater from a
9 well that is produced for transport outside the district.

10 (e) Fees authorized by this section may be:

11 (1) assessed annually;

12 (2) used to pay the cost of district operations; and

13 (3) used for any other purpose allowed under Chapter
14 36, Water Code.

15 Sec. 8819.153. LIMITATION ON INDEBTEDNESS. The district
16 may issue bonds and notes under Subchapter F, Chapter 36, Water
17 Code, except that the total indebtedness created by that issuance
18 may not exceed \$500,000 at any time.

19 SECTION 2. (a) The legal notice of the intention to
20 introduce this Act, setting forth the general substance of this
21 Act, has been published as provided by law, and the notice and a
22 copy of this Act have been furnished to all persons, agencies,
23 officials, or entities to which they are required to be furnished
24 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
25 Government Code.

26 (b) The governor has submitted the notice and Act to the
27 Texas Commission on Environmental Quality.

1 (c) The Texas Commission on Environmental Quality has filed
2 its recommendations relating to this Act with the governor,
3 lieutenant governor, and speaker of the house of representatives
4 within the required time.

5 (d) All requirements of the constitution and laws of this
6 state and the rules and procedures of the legislature with respect
7 to the notice, introduction, and passage of this Act are fulfilled
8 and accomplished.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

HB 475

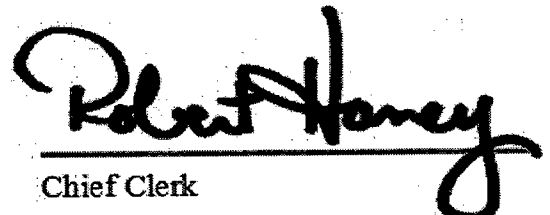
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

01/10/2007

Date transmitted to
Governor's Office


Chief Clerk
House of Representatives

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to a conservation and reclamation district and a copy of the notice of intention to introduce the bill.

MAR 07 2007

Date transmitted to
Texas Commission on Environmental Quality


Governor

TO: The Honorable Speaker of the House
The Honorable President of the Senate
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Texas Commission on Environmental Quality

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

The Honorable Tom Craddick
Texas House of Representatives
Capitol Station
PO Box 2910
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

HB 475, as Filed by Representative Charles L. "Chuck" Hopson - Relating to the Creation of the Panola County Groundwater Conservation District

Dear Speaker Craddick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

HB 475 amends Subtitle H, Title 6, Special District Local Laws Code, adding new Chapter 8819, Panola County Groundwater Conservation District creating, subject to a confirmation election, the Panola County Groundwater Conservation District (District) and providing of the powers, duties, administration, operations and financing. The District's initial boundaries would be coextensive with the boundaries of Panola County and forms a closure. The bill authorizes the District with the powers and duties provided by general law for Groundwater Conservation Districts (GCDs). Unlike general law GCDs, the bill provides that the District: may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility; may not purchase, sell, transport or distribute surface water or groundwater for any purpose; may not exercise the power of eminent domain; may not levy a tax that exceeds \$0.015 per \$100 assessed valuation; and, may not exceed bond or note indebtedness of \$500,000. The District would be dissolved on November 6, 2007, if it is not confirmed by the voters, and Chapter 8819 would expire on September 1, 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Cowan".

Michael D. Cowan, Director
Water Supply Division

cc: The Honorable Robert Puente, Chairman, House Natural Resources Committee
The Honorable Charles L. "Chuck" Hopson, Texas House of Representatives

Enclosure

H.B. No. 475

A BILL TO BE ENTITLED
AN ACT

By Chuck Hopson

relating to the creation of the Panola County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

JAN 05 2007

Filed with the Chief Clerk

FEB 05 2007

Read first time and referred to Committee on Natural Resources

Reported ____favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote).
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent) _____
(_____ years, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)